

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

C.J. Feril and Andrew Miller,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

Case No. 21-cv-11406
Hon. Robert H. Cleland

3G Home Exteriors, Inc.,
a Michigan corporation, and
Jacob Heier, an individual,

Jointly and Severally,

Defendants.

Pitt, McGehee, Palmer Bonanni &
Rivers, P.C.
Robert W. Palmer (P31704)
Channing Robinson-Holmes (P81698)
Attorneys for Plaintiffs
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mturchyn@hertzschram.com

**STIPULATED ORDER GRANTING PLAINTIFFS'
PRE-DISCOVERY MOTION FOR CONDITIONAL CLASS
CERTIFICATION AND COURT-SUPERVISED NOTICE TO
POTENTIAL OPT-IN PLAINTIFFS PURSUANT TO 29 U.S.C. 216(b)**

This matter having come before the Court pursuant to the stipulated agreement of the parties as represented by counsel, and the Court being otherwise fully advised in the premises:

IT IS HEREBY ORDERED that Plaintiffs' Pre-Discovery Motion for Conditional Class Certification and Court-Supervised Notice to Potential Opt-in Plaintiffs Pursuant to 29 U.S.C. 216(b) is GRANTED.

IT IS FURTHER ORDERED that the putative class for the instant action is defined as: All current and former installers employed by 3G Home Exteriors at their location in Fraser, Michigan from three years prior to the date of this order through the date of this order.

IT IS FURTHER ORDERED that Defendants are to provide Plaintiffs the name, last known address, and telephone number of putative class members within 14 days of the instant Order.

IT IS FURTHER ORDERED that Plaintiffs may thereafter send a Notice of Pendency of FLSA Lawsuit and Consent to Join, attached as Exhibit A to the instant order, to all persons identified by Defendants within ten days of service of such spreadsheet. Plaintiffs shall provide to Defendants a list of all persons served with this notice and the dates upon which they were served within seven days after the last person is served.

IT IS FURTHER ORDERED that the instant order is entered without prejudice to Defendants' ability to defend against final class certification and the merits of this case within a time to be later set by the Court.

IT IS FURTHER ORDERED that this order should not be interpreted as a finding that Defendants did, in fact, act with willfulness for the purposes of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, or that a three-year statute of limitations will govern this case.

Dated: October 19, 2021

s/Robert H. Cleland
Hon. Robert H. Cleland
United States District Court Judge

Approved as to form and substance:

s/ Channing Robinson-Holmes
Channing Robinson-Holmes (P81698)
Robert W. Palmer (P31704)
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Rivers, P.C.
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s/ Matthew Turchyn (w/ consent)
Elizabeth C. Thomson (P53579)
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EXHIBIT A

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[PROPOSED] NOTICE OF COLLECTIVE ACTION

TO: ALL CURRENT AND FORMER INSTALLERS EMPLOYED BY 3G HOME
EXTERIORS INC. FROM [insert date] TO THE [insert date]

RE: FAIR LABOR STANDARDS ACT LAWSUIT

The purpose of this Notice is to inform you of a collective action lawsuit filed in which you are potentially “similarly situated” to the named Plaintiffs, C.J. Feril and Andrew Miller, to advise you of how your rights may be affected by this action, and to inform you of the procedure to make a claim if you chose to do so.

1. INTRODUCTION

On June 15, 2021, an action was filed under the Fair Labor Standards Act (“FLSA”) against 3G Home Exteriors, Inc. and its owner Jacob Heier (hereinafter “Defendants”), in the United States District Court for the Eastern District of Michigan. Section 216(b) of the FLSA, 29 U.S.C. § 216(b), permits employees to collectively seek unpaid federal minimum wages and overtime pay to which they are entitled, and the Court has authorized us to send you this Notice.

As an individual who worked as an installer for Defendants, you have the right to join this lawsuit if you wish. **The law prohibits any Defendants from retaliating against you for exercising your rights under the FLSA, including signing this Notice and joining this lawsuit. It is illegal for Defendants to fire you or retaliate against you in any manner because you choose to participate in this lawsuit. Your right to participate in this lawsuit by signing this Notice has not been lost or released even if you**

have signed a document indicating that you did not intend to join the lawsuit.

If the case is successful, the FLSA authorizes the Court to award you back pay or damages, plus an equal amount as liquidated damages (double damages), plus costs and attorneys' fees.

2. DESCRIPTION OF THE LAWSUIT

The lawsuit alleges that Defendants violated the FLSA by failing to pay its hourly employees overtime wages. Plaintiffs allege that they and other Installers are entitled to full, unpaid overtime wages and further seek an additional equal amount as liquidated damages, as well as attorneys' fees and costs. This litigation is currently in early litigation.

Defendants deny Plaintiffs' allegations that they have violated the FLSA or failed to properly pay their workers and have further denied Plaintiffs' allegations that they are liable to Plaintiffs and Class members under any circumstances.

3. PERSONS ELIGIBLE TO RECEIVE THIS NOTICE

The United States District Court for the Eastern District of Michigan has approved this Notice to be distributed to:

All current and former installers employed by 3G Home Exteriors Inc. at their Michigan location from [insert date of order] to [insert date of order].

4. YOUR RIGHT TO PARTICIPATE IN THIS LAWSUIT

If you meet the description in the preceding Paragraph and believe that Defendants failed to pay you overtime wages for work you performed, you may join and participate in this lawsuit if you wish. It is entirely your own decision whether to join this lawsuit.

5. EFFECT OF JOINING THIS LAWSUIT

If you choose to join this lawsuit, you will be bound by any judgment entered by the Court, whether favorable or unfavorable. That means that, if Plaintiffs win, you likely will be eligible to share in the monetary award approved by the Court; likewise, if Plaintiffs lose, no money will be awarded to you, but you also will not be able to file or join any other lawsuit related to the matters that were decided in this case.

By joining this lawsuit you agree to stay in contact with class counsel throughout the pendency of the lawsuit and to provide timely assistance to the attorneys and their staff, including preserving and providing documents and discovery responses, returning phone calls and e-mails, and testifying at depositions and trial.

6. NO LEGAL EFFECT IN NOT JOINING THIS LAWSUIT

If you choose not to join this lawsuit, you will not be affected or bound by any judgment entered in this case, you will not receive any back pay or

liquidated damages as part of this case, and you will retain any legal rights you may have to file a lawsuit or complaint of your own against Defendants.

7. REPRESENTATION BY CLASS COUNSEL

Unless you retain other legal counsel, at your own expense, you will be represented in this lawsuit by Pitt McGehee Palmer Bonanni & Rivers, PC. No prepayment of legal fees or costs is required. If the case is successful, class counsel will seek to recover their costs and attorneys' fees either from Defendants or from any settlement or recovery approved by the Court.

If this collective action is later de-certified, class counsel will inform you of your options; and class counsel may ask you to enter into a separate written retainer agreement at that time.

8. HOW TO JOIN THIS LAWSUIT

If you wish to join this lawsuit, please complete and return the enclosed Consent to Join form no later than **[insert date]** to:

Channing Robinson-Holmes
Pitt McGehee Palmer Bonanni & Rivers P.C.
117 W. Fourth St., Suite 200
Royal Oak, Michigan 48067
Phone: (248) 398-9800
Fax: (248) 268-7996
crobinson@pittlawpc.com

WE MUST RECEIVE YOUR SIGNED CONSENT TO JOIN FORM BY **[insert date], FOR YOU TO BE ELIGIBLE TO PARTICIPATE IN THIS LAWSUIT.**

9. NO OPINION EXPRESSED AS TO MERITS OF THIS LAWSUIT

Although this Notice and its contents have been authorized by the Court, the Court takes no position regarding the merits of Plaintiffs' claims or Defendants' defenses, and there is no assurance that the Court will grant any relief to you or the Plaintiffs in this case.

10. CONCLUSION

THIS NOTICE AND ITS CONTENT HAVE BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, THE HONORABLE ROBERT CLELAND PRESIDING.

**PLEASE DO NOT ATTEMPT TO CONTACT
THE COURT REGARDING THIS LAWSUIT**

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CONSENT TO JOIN

1. Pursuant to the Fair Labor Standards Act, 29 U.S.C. §216(b), I hereby consent to join and act as a plaintiff in the above-captioned lawsuit.

2. I agree to be bound by any adjudication or court rulings in the lawsuit, whether favorable or unfavorable.

3. I hereby designate the Pitt McGehee Palmer Bonanni & Rivers, P.C., law firm to represent me in the lawsuit under the terms and conditions set forth on the following page.

Signature: _____

Print Name: _____

Date Signed: _____

Contact Information

(The information requested on this page is for internal attorney use and will not be shared with your employer or filed with the court.)

Name(s): _____

(Please list all names you use or are known by)

Street Address (and Mailing Address if different):

City, State & Zip Code (to receive mail):

Social Security Number: _____ Date of Birth: _____

Telephone: _____ Cell Phone: _____

Personal Email Address(es): _____

Job Title(s): _____ Supervisor(s): _____

Work Departments/Locations: _____

Approximate Dates of Employment: _____

Employee ID (if known): _____

Additional Terms & Information

Section 216(b) of the Fair Labor Standards Act, 29 U.S.C. §216(b), permits employees to collectively seek unpaid minimum wages and overtime pay to which they are entitled.

It is illegal for an employer to retaliate against an individual for exercising his or her rights (such as by participating in this lawsuit, or by submitting this document, or talking to attorneys about his or her rights to full compensation for work performed).

Unless you retain other legal counsel, at your own expense, you will be represented in this class / collective action lawsuit by the Pitt McGehee Palmer & Rivers, P.C (“class counsel”). No prepayment of legal fees or costs is required. If the class or collective action is later de-certified, class counsel will inform you of your options; and class counsel may ask you to enter into a separate written retainer agreement at that time.

By joining this lawsuit you agree to stay in contact with class counsel throughout the pendency of the lawsuit and to provide timely assistance to the attorneys and their staff, including preserving and providing documents and discovery responses, returning phone calls and emails, and testifying at depositions and trial. Please advise class counsel immediately of any change of address or employment; any bankruptcy filing; or any criminal conviction.

Attorneys shall be entitled to no fee unless awarded/approved by the court. In addition, any costs advanced by class counsel may be deducted from any amount you receive on a pro rata basis with all other plaintiffs.

Whether you have a claim or are entitled to damages cannot be determined until we review your information and employment history. Class counsel makes no guarantees or representations about the probable outcome of this lawsuit.

If you ever have questions or need to talk to class counsel, we can be contacted as follows:

Channing Robinson-Holmes

Bob Palmer
Pitt McGehee Palmer Bonanni & Rivers, P.C.
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Royal Oak, MI 48067
(248) 398-9800
crobinson@pittlawpc.com